

AMENDED IN SENATE MAY 28, 2010

AMENDED IN SENATE MAY 18, 2010

AMENDED IN SENATE APRIL 5, 2010

SENATE BILL

No. 1031

Introduced by Senator Corbett

February 12, 2010

An act to add Article 17.1 (commencing with Section 2399) to Chapter 5 of Division 2 of, and to repeal Section 2399.7 of, the Business and Professions Code, relating to medicine.

LEGISLATIVE COUNSEL'S DIGEST

SB 1031, as amended, Corbett. Medical malpractice insurance: volunteer physicians and surgeons.

Under existing law, the Medical Practice Act, the Medical Board of California is responsible for the certification and regulation of physicians and surgeons. Existing law requires the board, in conjunction with the Health Professions Education Foundation, to study the issue of providing medical malpractice insurance to volunteer physicians and surgeons and to report its findings to the Legislature by January 1, 2008.

The bill would create the Volunteer Insured Physicians Program, administered by the board, to provide specified medical malpractice insurance coverage to volunteer physicians providing uncompensated care to patients pursuant to a contract with a qualified health care entity, as defined. The bill would provide ~~unspecified~~ funding for the program from the Contingent Fund of the Medical Board of California for a limited period of time. The bill would require annual reports to the Legislature until January 1, 2015.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Article 17.1 (commencing with Section 2399) is added to Chapter 5 of Division 2 of the Business and Professions Code, to read:

Article 17.1. Volunteer Insured Physicians Program

2399. This article shall be known and may be cited as the Volunteer Insured Physicians (VIP) Act, which authorizes the creation and implementation of the Volunteer Insured Physicians (VIP) Program within the Medical Board of California.

2399.1. ~~(a)~~ For purposes of this article, the following definitions shall apply:

~~(1)~~

(a) "Licensee" means the holder of a current physician and surgeon's certificate.

~~(2)~~

(b) "Patient" means a person who is eligible for free or discounted services at a qualified health care entity.

~~(3)~~

(c) "Qualified health care entity" means a community clinic as defined in subdivision (a) of Section 1204 of, or subdivision (c) of Section 1206 of, the Health and Safety Code, a county health department, or a hospital district, hospital, or a clinic owned and operated by a governmental entity that provides primary care to low-income patients.

~~(4)~~

(d) "Voluntary service agreement" means an agreement executed pursuant to this article between the board, a licensee, and a qualified health care entity that authorizes the health care entity to enter into a voluntary service contract with the licensee.

~~(5)~~

(e) "Voluntary service application" means the written application developed by the board that a licensee must complete and submit in order to be considered for participation in the VIP Program.

~~(6)~~

1 (f) “Voluntary service contract” means an agreement executed
2 pursuant to this article between a licensee and a qualified health
3 care entity that authorizes the licensee to deliver health care
4 services to patients as an agent of the qualified health care entity
5 on a voluntary, uncompensated basis.

6 ~~(7)~~

7 (g) “Volunteer physician” means a licensee under this chapter
8 who provides primary care medical services in California without
9 receiving monetary or material compensation and who is
10 participating in the VIP Program.

11 2399.2. (a) A licensee who wants to provide voluntary,
12 uncompensated care to patients, but who does not have medical
13 professional liability insurance that provides insurance coverage
14 for premiums, defense, and indemnity costs for any claims arising
15 from voluntary and uncompensated care, may submit a voluntary
16 service application to the board for coverage under the VIP
17 Program.

18 (b) When the board receives an application for voluntary license
19 status under Section 2083 or 2442, the board shall assess whether
20 the applicant qualifies for coverage under the VIP Program and
21 notify the applicant of its finding.

22 (c) A licensee who has standard medical professional liability
23 insurance coverage for his or her regular practice but who is not
24 covered for volunteer service may submit a voluntary service
25 application to participate in the VIP Program. In conjunction with
26 the voluntary service application, the licensee shall submit
27 verification from his or her medical professional liability insurance
28 carrier that voluntary, uncompensated care is not covered by his
29 or her existing medical professional liability insurance policy.

30 (d) The board shall review the voluntary service application to
31 determine if the applicant meets the criteria for VIP Program
32 participation. These criteria shall include both of the following:

33 (1) Holding an active license in good standing to practice
34 medicine in the State of California.

35 (2) No record of disciplinary action by the board or any other
36 regulatory board.

37 (e) Eligibility for the VIP Program shall be reassessed by the
38 board during each license renewal cycle.

39 2399.3. (a) Licensees approved by the board for participation
40 in the VIP Program may enter into a voluntary service agreement

1 with the board and a qualified health care entity that acknowledges
2 the terms of the VIP Program and transfers responsibility from the
3 volunteer physician to the state for medical professional liability
4 insurance, including premiums, defense, and indemnity costs, for
5 voluntary, uncompensated medical care that is provided in
6 accordance with an executed and signed voluntary service contract
7 between the volunteer physician and the qualified health care entity
8 and that complies with the terms of the VIP Program.

9 (b) Volunteer physicians participating in the VIP Program shall
10 agree to limit the scope of the volunteer medical care to primary
11 care medical services.

12 (c) The voluntary service contract between the volunteer
13 physician and the qualified health care entity shall include all of
14 the following provisions:

15 (1) All care provided shall be both voluntary and uncompensated
16 .

17 (2) Patient selection and initial referral shall be made solely by
18 the qualified health care entity and the volunteer physician shall
19 accept all referred patients except as otherwise allowed by law.
20 However, the number of patients that must be accepted may be
21 limited by the voluntary service contract and patients may not be
22 transferred to the volunteer physician in violation of any
23 antidumping provisions of the Omnibus Budget Reconciliation
24 Act of 1989 (P.L. 101-239) or the Omnibus Budget Reconciliation
25 Act of 1990 (P.L. 101-508).

26 (3) The qualified health care entity shall have access to the
27 patient records of the volunteer physician delivering services under
28 the voluntary service contract.

29 (4) The volunteer physician shall be subject to the qualified
30 health care entity's standard peer review process and all related
31 laws regarding peer review, including, but not limited to, the filing
32 of reports pursuant to Section 805.

33 (5) If the qualified health care entity has no peer review process,
34 the qualified health care entity shall utilize a quality assurance
35 program to monitor services delivered by the volunteer physician
36 under the voluntary service contract.

37 (6) The right to dismiss or terminate a volunteer physician
38 delivering services under the voluntary service contract shall be
39 retained by the qualified health care entity. If the voluntary service

1 contract is terminated, the qualified health care entity shall notify
2 the VIP Program in writing within five days.

3 2399.4. The fact that a volunteer physician is insured under
4 the VIP Program in relation to particular medical services rendered
5 shall not operate to change or affect the laws applicable to any
6 claims arising from or related to those medical services. All laws
7 applicable to a claim remain the same regardless of whether a
8 licensee is insured through the VIP Program.

9 2399.5. If a volunteer physician covered by the VIP Program
10 receives notice or otherwise obtains knowledge that a claim of
11 professional medical negligence has been or may be filed, the
12 volunteer physician shall immediately notify the VIP Program or
13 the contracted liability carrier.

14 2399.6. All costs for administering the VIP Program, including
15 the cost of medical professional liability insurance for premiums,
16 defense, and indemnity coverage for program participants, shall
17 be paid for from the Contingent Fund of the Medical Board of
18 California, in an amount not to exceed _____ dollars (\$_____) per
19 year. *California.*

20 2399.7. (a) The board shall report annually to the Legislature
21 summarizing the efficacy of access and outcomes with respect to
22 providing health care services for patients pursuant to this article.
23 The report shall include the numbers of injuries and deaths
24 reported, claims statistics for all care rendered under the VIP
25 Program, including the total of all premiums paid, the number of
26 claims made for each year of the VIP Program, the amount of all
27 indemnity payments made, the cost of defense provided, and
28 administration costs associated with all claims made against
29 volunteer physicians arising from voluntary and uncompensated
30 care provided under the VIP Program.

31 (b) (1) A report to be submitted pursuant to subdivision (a)
32 shall be submitted in compliance with Section 9795 of the
33 Government Code.

34 (2) Pursuant to Section 10231.5 of the Government Code, this
35 section is repealed on January 1, 2015.

36 2399.75. Nothing in this article shall be construed to prevent
37 the board from taking appropriate action against a licensee.

1 2399.8. This article shall remain operative until January 1,
2 2016, or until another viable source of funding is identified and
3 adopted, whichever occurs first.

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